

FINDING OF EMERGENCY

The Fair Political Practices Commission finds that an emergency exists and that the foregoing amendment to Regulations 18734 and 18751 are necessary for the immediate preservation of the public peace, health, safety or general welfare. A statement of the facts constituting such emergency is:

STATEMENT OF FACTS

Under Government Code Section 87200 and following, high ranking state and local public officials are required to periodically publically disclose their economic interests by filing a Statement of Economic Interests (FPPC Form 700) or “SEI”). Government Code Section 87300 and following requires other state and local public officials who also occupy decision making positions in their agencies to file SEIs, as set forth in their agency’s conflict-of-interest code. The filing and public disclosure of financial interests alerts these public officials to areas in which they may have a conflict of interest when making governmental decisions while also allowing the public to monitor potential conflicts. Furthermore, officials who file SEIs are subject to the Political Reform Act’s (Government Code Sections 81000-91014, hereinafter “the Act”) limits on gifts and ban on honoraria.

On October 8, 2009, the Commission adopted Regulation 18734, which sets forth requirements for interim financial disclosure for newly created positions within agencies until the agency’s conflict-of-interest code can be amended to include the new position. The Regulation, however, overlooked positions that are “newly created” by virtue of the fact that the agency itself is newly created. This amendment would rectify that oversight and require who engage in governmental decision making to file SEIs, whether they work for new agencies or not.

Generally, new agencies have six months to adopt a code (Section 87303). However, promulgation of conflict-of-interest codes often takes longer than the required six-month period. While the Act’s conflict-of-interest rules apply to all public officials regardless of their SEI filing obligations, the Act’s gift limit and honorarium prohibitions do not apply to a public official until he or she is required to file an SEI. These changes would extend the Act’s gift limit and honorarium prohibitions to decision making employees during the code adoption process.

Without these amendments, decision making officials with agencies such as the California Citizens Redistricting Commission or at any number of other temporary or permanent “special committees” or “task forces” or other such organizations that qualify as an agency because they have decision making authority will be allowed to operate in the dark without public view of the financial influences that may play a part in their decision making. This is contrary to the most basic principal of the Act.